

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Access Charge Reform)

Price Cap Performance Review
for Local Exchange Carriers)

Low-Volume Long Distance Users)

Federal State Joint Board On
Universal Service)

DOCKET FILE COPY ORIGINAL

CC Docket No. 96-262

CC Docket No. 94-1

CC Docket No. 99-249

CC Docket No. 96-45

To: The Commission

**COMMENTS
OF THE
AMERICAN PETROLEUM INSTITUTE**

The American Petroleum Institute,¹ by its attorneys, hereby submits its views on
the access charge plan submitted by the Coalition for Affordable Local and Long

¹ API is a national trade association representing approximately 350 companies involved in all phases of the petroleum and natural gas industries, including exploration, production, refining, marketing, and transportation of petroleum, petroleum products and natural gas. Among its many activities, API acts on behalf of its members as spokesperson before federal and state regulatory agencies. The API Telecommunications Committee is one of the standing committees of the organization's Information Systems Committee. The Telecommunications Committee evaluates and develops responses to state and federal proposals affecting telecommunications facilities used in the oil and gas industries.

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Distance Service (“CALLS Plan”).² The CALLS Plan addresses a number of issues that the Commission, the user community, and carriers have grappled with prior to and since the Commission’s May 1997 *Access Charge Reform Order*³ and *Price Caps Order*.⁴

Aspects of the CALLS Plan are troubling such as the strong suggestion that any adverse implications of the ILEC property audits be ignored for ratemaking purposes.⁵ Such a finding appears unnecessary and unwarranted. The request that the “floor” on reductions in interstate switched access remain in effect for five (5) years banks heavily on the emergence of local service competition. As reflected by the experience of API member companies, the viability of local service competition remains a distant prospect notwithstanding the Commission’s numerous decisions, actions and orders.⁶ Viewed most positively, the CALLS Plan provides an essential level of baseline regulation that should mitigate the risk of imperfect local service competition. This is increasingly

² These Comments relate principally to the Memorandum in Support of the CALLS Plan filed on August 20, 1999. In referring to the “CALLS Plan,” all page references shall be those in the Memorandum in Support, except as otherwise noted.

³ *Access Charge Reform Order*, First Report and Order, 12 FCC Rcd 15982 (1997) (“Access Charge Reform Order”).

⁴ *Price Caps Order*, Fourth Report and Order on CC Docket No. 94-1 and Second Report and Order in CC Docket No. 96-262, 12 FCC Rcd 16692 (1992), *reversed and remanded*, *United States Telephone Ass’n v. FCC*, 1999 U.S. App. Lexis 9768, No. 99-1469 (D.C. Cir., May 21, 1999).

⁵ CALLS Plan, n. 79.

⁶ *See, e.g.*, Kuehn, “Local Exchange Rates — Are We Having Fun Yet,” Business Communications Review, October 1999, p. 66 (providing an insightful, real world assessment of the availability and reality of local service competition).

important in light of the accelerating concentration in the domestic telecommunications industry.

In many respects, the plan is an extension of the policies adopted in May 1997 which have operated to reduce interstate switched access rates, as reported by the Commission.⁷ These reductions redound to the benefit of all telecommunications service customers. The CALLS Plan fashions a set of recommended solutions which accommodate the divergent objectives of eliminating implicit Universal Service Fund (USF) cost recovery, protecting the interests of so-called “high cost” service customers, promoting the recovery of fixed local loop costs in a rational manner and facilitating further reductions in interstate switched access rates. On the other hand, compelling arguments support far more aggressive reductions in interstate access charges.⁸ On

⁷ During the past two years, the national per weighted average in switched access charges has fallen dramatically, as expressed in total access charge per conversation minute.

<u>Period</u>	<u>Rate (Per Minute)</u>
June 1, 1997	\$0.0604
July 1, 1999	\$0.0284

Trends in Telephone Service, Industry Analysis Division, September 1999, Table 1.2, Interstate Per Minute Access Charges.

⁸ The arguments may be summarized as follows:

1. The increasing rates of return experienced by the Price Cap LECs during the 1990s and their declining costs of capital over the same period warrant a significant LEC reinitialization of the price caps indices based on a more realistic cost of capital;
2. An interstate-only productivity factor should be used; and
3. A productivity factor well in excess of 6.5% is justified.

balance, the CALLS plan is a reasonable interim solution, even though characterizing it as a “social contract” strains credibility.

Consistent with the concept of rate stability and mutuality, the Commission is urged to limit, if not eliminate, the ability of the price cap LECs to recover exogenous costs which may be incurred during the rate stability period. Under the CALLS Plan, users do effectively “give up” the benefits of lower switched access charges reasonably achievable under the modified price cap proposals offered in recent years. On the principle that the benefits of rate stability should be mutual, the flowthrough of exogenous costs should be severely limited.

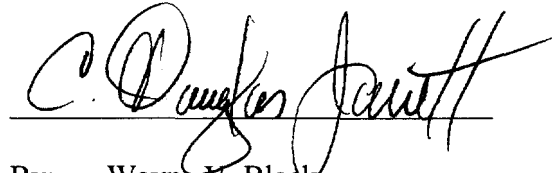
One administrative modification is also warranted. Recovery of the Presubscribed Interexchange Carrier Charge (“PICC”) should be made directly on a per line basis. The Price Caps LEC should recover the PICC directly. The recovery of the PICC by the interexchange carriers, through divergent approaches, has engendered unnecessary debate and controversy between end-users and carriers. In an effort to reduce transaction costs for all parties and to recover the charge in a cost-causative manner, the multiline PICC should be recovered by the Price Caps LECs directly on a per line basis.

To the extent marketplace realities continue to undermine the emergence of local service competition, the Commission should retain the flexibility to reassess the CALLS Plan during the second half of the rate stability period. Neither the Commission, the carriers nor the user community can state with any assurance that local service

competition will develop, particularly if the consolidation trend in the domestic telecommunications industry continues.

Respectfully Submitted,

THE AMERICAN PETROLEUM INSTITUTE

A handwritten signature in black ink, appearing to read "C. Douglas Jarrett", is written over a horizontal line.

By: Wayne V. Black
C. Douglas Jarrett
Keller and Heckman LLP
1001 G Street, N.W.
Suite 500 West
Washington, D.C. 20001
(202) 434-4100

Its Attorneys

Dated: November 12, 1999

CERTIFICATE OF SERVICE

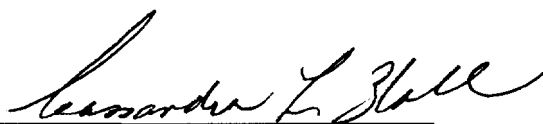
I, Cassandra L. Hall, hereby certify that I have served a copy of the foregoing "Comments" of the American Petroleum Institute on this 12th day of November, 1999, upon the following parties via hand-delivery.

Wanda Harris*
Common Carrier Bureau
Competitive Pricing Division
Federal Communications Commission
445 Twelfth Street, S.W.
Fifth Floor
Washington, D.C. 20554

International Transcription Services,
Inc.**
1231 20th Street, N.W.
Washington, D.C. 20037

* three paper copies

**one paper copy and one diskette copy

A handwritten signature in cursive script, reading "Cassandra L. Hall", written over a horizontal line.

Cassandra L. Hall